

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

FREDERICK BERNARD SMILEY, #200927:

Petitioner, :

v. :

CARTER DAVENPORT, :

Respondent. :

CIVIL ACTION 1:15-00261-KD-B

ORDER

After due and proper consideration of all portions of this file deemed relevant to the issues raised and there having been no objections filed, the Report and Recommendation of the Magistrate Judge dated August 28, 2018 is **ADOPTED** as the opinion of this Court. It is hereby **ORDERED** that Petitioner's motion is **DISMISSED** with prejudice, and that he is not entitled to a Certificate of Appealability and not entitled to proceed *in forma pauperis* on appeal.

DONE and ORDERED this the **19th** day of **September 2018**.

/s/ Kristi K. DuBose
KRISTI K. DuBOSE
CHIEF UNITED STATES DISTRICT JUDGE